IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

WSOU INVESTMENTS LLC, *Plaintiff* **-v-** **MICROSOFT CORPORATION,** *Defendant*	§ § § § § § § § § § §	**W-20-CV-00454-ADA** **W-20-CV-00461-ADA** **W-20-CV-00465-ADA**

CLAIM CONSTRUCTION ORDER

The Court held a *Markman* hearing on March 11, 2021. During that hearing, the Court provided its final constructions for all terms except for "packet loss rate." After reviewing the parties' supplemental briefs regarding "packet loss rate," the Court now enters its final claim constructions.

SIGNED this 17th day of March, 2021.

_____
ALAN D ALBRIGHT
UNITED STATES DISTRICT JUDGE

Term	Plaintiff's Proposed Construction	Defendants' Proposed Construction	Court's Final Construction
"active node(s)" ('702 Patent, Claim 1) [Proposed by Plaintiff]	"node(s) in an active state of AAA functionality"	"node(s) that carry out the AAA functions for the network by employing their respective user databases"	"node(s) in an active state of AAA functionality"
"monitoring the active nodes to determine if one of the active nodes gets disconnected from the network", "said active nodes monitoring one another to detect if an active node becomes disconnected from the network", and "monitoring the active nodes to detect if one becomes disconnected from the network" ('702 Patent, Claims 1, 11, 18) [Proposed by Defendant]	Plain and ordinary meaning	"two active nodes monitoring one another to detect if one becomes disconnected from the network"	Plain-and-ordinary meaning
"each of said nodes having a user database" ('702 Patent, Claim 18) [Proposed by Defendant]	Plain and ordinary meaning	"each of said nodes maintaining its own user database"	Preamble is limiting except for the phrase "A method of operating a wireless communication network." Plain-and-ordinary meaning.

Term	Plaintiff's Proposed Construction	Defendants' Proposed Construction	Court's Final Construction
"activating the AAA functions of the active nodes" ('702 Patent, Claim 1) [Proposed by Defendant]	Plain and ordinary meaning; not indefinite	Indefinite	Not indefinite. Plain-and-ordinary meaning.
"logging changes to the user databases for the active nodes thereby updating the same to reflect changes in information contained therein" and "wherein each of the active nodes logs changes to its user database thereby updating the same to reflect changes in information contained therein" ('702 Patent, Claims 9, 13, 18) [Proposed by Defendant]	Plain and ordinary meaning; not indefinite	Indefinite	Indefinite.

Term	Plaintiff's Proposed Construction	Defendants' Proposed Construction	Court's Final Construction
"selecting two or more parameters of a network" and "measuring and/or calculating at two or more times values of the network parameters" ('160 Patent, Claim 1) [Proposed by Defendant]	Plain and ordinary meaning	"selecting two or more different types of parameters of a network / measuring and/or calculating at two or more times values of the two or more different types of network parameters"	Plain-and-ordinary meaning.
"network parameter" ('160 Patent, Claims 1, 3) [Proposed by Defendant]	Plain and ordinary meaning	"measurable service level specifications from which service indicator values can be determined"	Plain-and-ordinary meaning wherein the plain-and-ordinary meaning includes, but is not limited to, parameters such as "packet losses; time-delays between packets; jitter or stability; band width: bandwidth stability; and the directionality of the communication."

Term	Plaintiff's Proposed Construction	Defendants' Proposed Construction	Court's Final Construction
"determining at two or more times the value of a service indicator", "determining a trend of the indicator", and "determining as a function of the trend of the indicator" ('160 Patent, Claim 1) [Proposed by Defendant]	Plain and ordinary meaning	"computing [at two or more times the value of a service indicator / a trend of the indicator / a time of the service indicator crossing a defined threshold] using the [measured and/or calculated parameter values / determined indicator values / trend of the indicator]"	Plain-and-ordinary meaning.
"service indicator" ('160 Patent, Claim 1) [Proposed by Defendant]	Plain and ordinary meaning	"an indicator of the quality of a network service distinct from the network parameters"	Plain-and-ordinary meaning wherein the plain-and-ordinary meaning is "an indicator of the quality of a network service"
"determining as a function of the trend of the indicator a time of the service indicator crossing a defined threshold" ('160 Patent, Claim 1) [Proposed by Defendant]	Plain and ordinary meaning	"determining as a function of the trend of the service indicator the time remaining for the indicator crossing a defined threshold"	Plain and ordinary meaning

Term	Plaintiff's Proposed Construction	Defendants' Proposed Construction	Court's Final Construction
"network that branches, downstream of the collection point" ('902 Patent, Claims 1, 6) [Proposed by Defendant]	Plain and ordinary meaning	refers to a tree network	Plain-and-ordinary meaning
"packet loss rate" ('902 Patent, Claims 1, 6) [Proposed by Plaintiff]	"the fraction of packets that are lost over a suitable time interval"	"the fraction of packets that are lost over a suitable time-averaging interval"	"the fraction of packets that are lost over a suitable time-averaging interval wherein the 'time-averaging interval' is an interval of time over which an average is taken"